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DEPARTMENT OF COMMERCE

International Trade Administration

[C-570-091]

Certain Steel Wheels 12 to 16.5 Inches in Diameter from the People's Republic of China: Final Affirmative Countervailing Duty Determination, and Final Affirmative Determination of Critical Circumstances

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) determines that countervailable subsidies are being provided to producers and exporters of certain steel wheels 12 to 16.5 inches in diameter (certain steel wheels) from the People's Republic of China (China).

DATES: Applicable [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

FOR FURTHER INFORMATION CONTACT: Emily Halle or Keith Haynes, AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-0176 or (202) 482-5139, respectively.

SUPPLEMENTARY INFORMATION:

Background

On February 25, 2019, Commerce published the *Preliminary Determination* of this investigation in the *Federal Register*.¹ In the *Preliminary Determination*, Commerce aligned the final determination in this countervailing duty (CVD) investigation with the final determination

¹ See *Certain Steel Wheels 12 to 16.5 Inches in Diameter from the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination*, 84 FR 5989 (February 25, 2019) (*Preliminary Determination*) and accompanying Preliminary Decision Memorandum.

in the companion less-than-fair-value (LTFV) investigation, in accordance with section 705(a)(1) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.210(b)(4). A complete summary of the events that occurred since Commerce published the *Preliminary Determination*, as well as a full discussion of the issues raised by parties for this final determination, may be found in the Issues and Decision Memorandum.²

The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov>, and is available to all parties in the Central Records Unit, Room B8024 of the main Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at <http://enforcement.trade.gov/frn/>. The signed Issues and Decision Memorandum and the electronic version are identical in content.

Commerce exercised its discretion to toll all deadlines affected by the partial Federal government closure from December 22, 2018, through the resumption of operations on January 29, 2019.³ Accordingly, the deadline for the final determination of this investigation is July 1, 2019.

Period of Investigation

The period of investigation (POI) is January 1, 2017 through December 31, 2017.

² See Memorandum, "Issues and Decision Memorandum for the Final Determination in the Countervailing Duty Investigation of Certain Steel Wheels 12 to 16.5 Inches in Diameter from the People's Republic of China," dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

³ See Memorandum to the Record from Gary Taverman, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance, "Deadlines Affected by the Partial Shutdown of the Federal Government," dated January 28, 2019. All deadlines in this segment of the proceeding have been extended by 40 days.

Scope of the Investigation

The products covered by this investigation are certain steel wheels 12 to 16.5 inches in diameter from China. For a complete description of the scope of this investigation, *see* Appendix I of this notice.

Scope Comments

During the course of this investigation and the concurrent LTFV investigation of certain steel wheels from China, Commerce received scope comments from interested parties. Commerce issued a Preliminary Scope Decision Memorandum to address these comments and set aside a period of time for parties to address scope issues in scope case and rebuttal briefs.⁴ Commerce has reviewed the briefs submitted by interested parties, considered the arguments therein, and has made changes to the scope of the investigation, including additional exclusions, and clarifying language. For a summary of the scope comments and rebuttal responses submitted to the record for this final determination, along with the accompanying discussion and analysis of all comments timely received, *see* the Final Scope Decision Memorandum.⁵

Final Affirmative Determination of Critical Circumstances

In the *Preliminary Determination*, Commerce preliminarily determined, pursuant to section 703(e)(1) of the Act, that critical circumstances exist with respect to Xingmin Intelligent Transportation Systems (Group) (Xingmin), Zhejiang Jingu Company Limited (Zhejiang Jingu), and all other exporters or producers not individually examined. For this final determination, we continue to find that critical circumstances exist for Xingmin, Zhejiang Jingu, and all other

⁴ *See* Memorandum, “Certain Steel Wheels 12 to 16.5 Inches in Diameter from the People’s Republic of China: Preliminary Scope Decision Memorandum,” dated April 15, 2019, at 11.

⁵ *See* Memorandum, “Certain Steel Wheels 12 to 16.5 Inches in Diameter from the People’s Republic of China: Final Scope Comments Decision Memorandum,” dated concurrently with this notice (Final Scope Decision Memorandum).

exporters or producers not individually examined, pursuant to section 705(a)(2) of the Act. For a full description of the methodology and results of Commerce's analysis, *see* the Issues and Decision Memorandum.

Analysis of Subsidy Programs and Comments Received

All issues raised in the case and rebuttal briefs submitted by interested parties in this proceeding, other than those issues related to scope, are discussed in the Issues and Decision Memorandum. A list of the issues raised by parties and responded to by Commerce in the Issues and Decision Memorandum, is attached at Appendix II.

Use of Adverse Facts Available

Commerce relied on "facts otherwise available," including adverse facts available (AFA), for several findings in the *Preliminary Determination*. For this final determination, we are basing the CVD rates for Xingmin and Zhejiang Jingu on facts otherwise available, with an adverse inference, pursuant to sections 776(a) and (b) of the Act. For a full discussion of our application of AFA, *see* the Issues and Decision Memorandum.

Changes Since the Preliminary Determination

Based on our analysis of the comments received from parties, we made certain changes to the respondents' subsidy rate calculations set forth in the *Preliminary Determination*. For a discussion of these changes, *see* the Issues and Decision Memorandum.

All-Others Rate

In accordance with section 705(c)(5)(A) of the Act, Commerce shall determine an estimated all-others rate for companies not individually examined. Generally, under section 705(c)(5)(A)(i) of the Act, this rate shall be an amount equal to the weighted average of the estimated subsidy rates established for those companies individually examined, excluding any

zero and *de minimis* rates and any rates based entirely on AFA under section 776 of the Act. However, section 705(c)(5)(A)(ii) of the Act provides that, where all countervailable subsidy rates established for the mandatory respondents are zero, *de minimis*, or based entirely on facts available, Commerce may use “any reasonable method” for assigning an all-others rate, including “averaging the estimated average countervailable subsidy rates determined for the exporters and producers individually investigated.” In this investigation, all rates for the individually-investigated respondents are based entirely on facts available, pursuant to section 776 of the Act. We are relying on a simple average of the total AFA rates assigned to Xingmin and Zhejiang Jingu as the “all-others” rate in this final determination, consistent with the statutory provision to rely on “any reasonable method.” Specifically, there is no other information on the record from which to determine the all-others rate. For further information on the all-others rate, *see* the Issues and Decision Memorandum.

Methodology

Commerce conducted this investigation in accordance with section 701 of the Act. For each of the subsidy programs found countervailable, Commerce determines that there is a subsidy, *i.e.*, a financial contribution by an “authority” that gives rise to a benefit to the recipient, and that the subsidy is specific.⁶ In making these findings, Commerce relied, in part, on facts otherwise available and, because it finds that one or more respondents did not act to the best of their ability to respond to Commerce’s requests for information, Commerce drew an adverse inference where appropriate in selecting from among the facts otherwise available.⁷ For a full

⁶ *See* sections 771(5)(B) and (D) of the Act regarding financial contribution; section 771(5)(E) of the Act regarding benefit; and section 771(5A) of the Act regarding specificity.

⁷ *See* sections 776(a), (b), and 782(d) of the Act.

description of the methodology underlying our final determination, *see* the Issues and Decision Memorandum.

Final Determination

In accordance with section 705(c)(1)(B)(i)(I) of the Act, we established individual estimated countervailable subsidy rates, as follows:

Company	Subsidy Rate
Xingmin Intelligent Transportation Systems (Group) ⁸	386.45 percent
Zhejiang Jingu Company Limited ⁹	388.31 percent
All-Others	387.38 percent

Disclosure

We intend to disclose the calculations performed to parties in this proceeding within five days of its public announcement, or if there is no public announcement, within five days of the date of this notice, in accordance with 19 CFR 351.224(b).

Continuation of Suspension of Liquidation

As a result of our *Preliminary Determination*, and pursuant to sections 703(d)(1)(B) and (2) of the Act, we instructed U.S. Customs and Border Protection (CBP) to suspend liquidation of all appropriate entries of certain steel wheels from China, as described in Appendix I of this notice, that were entered or withdrawn from warehouse, for consumption, on or after November 27, 2018, 90 days prior to the date of publication of the *Preliminary Determination* in the

⁸ Commerce assigned Xingmin's rate to each of the entities for which Xingmin provided an initial questionnaire response: Sino-Tex (Longkou) Wheel Manufacturers Inc.; Tangshan Xingmin Wheel Co., Ltd.; and Xianning Xingmin Wheel Co., Ltd.

⁹ Commerce assigned Zhejiang Jingu Company Limited's rate to each of the entities named as cross-owned in its affiliation questionnaire response: Shanghai Yata Industry Company Limited; Shangdong Jingu Auto Parts Co., Ltd.; An'Gang Jingu (Hangzhou) Metal Materials Co., Ltd.; Zhejiang Wheel World Co., Ltd.; and Hangzhou Jingu New Energy Development Co. Ltd. Zhejiang Jingu's rate has also been assigned to Zhejiang Jingu Automobile Components, which was the prior name of Zhejiang Jingu.

Federal Register, for Xingmin, Zhejiang and all other producers and exporters of merchandise under consideration. In accordance with section 703(d) of the Act, we issued instructions to CBP to discontinue the suspension of liquidation for CVD purposes for subject merchandise entered, or withdrawn from warehouse, on or after June 25, 2019, but to continue the suspension of liquidation of all entries from November 27, 2018 through June 24, 2019.

If the U.S. International Trade Commission (ITC) issues a final affirmative injury determination, we will issue a CVD order, reinstate the suspension of liquidation under section 706(a) of the Act, and require a cash deposit of estimated countervailing duties for such entries of subject merchandise in the amounts indicated above. If the ITC issues a final affirmative injury determination but a final negative determination of critical circumstances, we will instruct CBP to liquidate entries prior to the date of publication of the *Preliminary Determination* without regard to duties, and all estimated duties deposited or securities posted as a result of the suspension of liquidation will be refunded or canceled. If the ITC determines that material injury, or threat of material injury, does not exist, this proceeding will be terminated, and all estimated duties deposited or securities posted as a result of the suspension of liquidation will be refunded or canceled.

International Trade Commission Notification

In accordance with section 705(d) of the Act, we will notify the ITC of our final affirmative determination that countervailable subsidies are being provided to producers and exporters of certain steel wheels from China. Because the final determination in this proceeding is affirmative, in accordance with section 705(b) of the Act, the ITC will make its final determination as to whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports, or sales (or the likelihood of sales) for

importation of certain steel wheels from China no later than 45 days after our final determination. If the ITC determines that material injury or threat of material injury does not exist, the proceeding will be terminated, and all cash deposits will be refunded. If the ITC determines that such injury does exist, Commerce will issue a CVD order directing CBP to assess, upon further instruction by Commerce, countervailing duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

Administrative Protective Orders

This notice serves as the only reminder to parties subject to the administrative protective order (APO) of their responsibility concerning the destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

Notification to Interested Parties

This determination is issued and published in accordance with sections 705(d) and 777(i) of the Act and 19 CFR 351.210(c).

Dated: July 1, 2019.

Jeffrey I. Kessler,
Assistant Secretary
for Enforcement and Compliance.

Appendix I

Scope of the Investigation

The scope of this investigation is certain on-the-road steel wheels, discs, and rims for tubeless tires with a nominal wheel diameter of 12 inches to 16.5 inches, regardless of width. Certain on-the-road steel wheels with a nominal wheel diameter of 12 inches to 16.5 inches within the scope are generally for road and highway trailers and other towable equipment, including, inter alia, utility trailers, cargo trailers, horse trailers, boat trailers, recreational trailers, and towable mobile homes. The standard widths of certain on-the-road steel wheels are 4 inches, 4.5 inches, 5 inches, 5.5 inches, 6 inches, and 6.5 inches, but all certain on-the-road steel wheels, regardless of width, are covered by the scope.

The scope includes rims and discs for certain on-the-road steel wheels, whether imported as an assembly, unassembled, or separately. The scope includes certain on-the-road steel wheels regardless of steel composition, whether cladded or not cladded, whether finished or not finished, and whether coated or uncoated. The scope also includes certain on-the-road steel wheels with discs in either a “hub-piloted” or “stud-piloted” mounting configuration, though the stud-piloted configuration is most common in the size range covered.

All on-the-road wheels sold in the United States must meet Standard 110 or 120 of the National Highway Traffic Safety Administration’s (NHTSA) Federal Motor Vehicle Safety Standards, which requires a rim marking, such as the “DOT” symbol, indicating compliance with applicable motor vehicle standards. See 49 CFR 571.110 and 571.120. The scope includes certain on-the-road steel wheels imported with or without NHTSA’s required markings.

Certain on-the-road steel wheels imported as an assembly with a tire mounted on the wheel and/or with a valve stem or rims imported as an assembly with a tire mounted on the rim and/or with a valve stem are included in the scope of this investigation. However, if the steel wheels or rims are imported as an assembly with a tire mounted on the wheel or rim and/or with a valve stem attached, the tire and/or valve stem is not covered by the scope.

The scope includes rims, discs, and wheels that have been further processed in a third country, including, but not limited to, the welding and painting of rims and discs to form a steel wheel, or any other processing that would not otherwise remove the merchandise from the scope of the investigations if performed in the People’s Republic of China.

Excluded from this scope are the following:

- (1) Steel wheels for use with tube-type tires; such tires use multi piece rims, which are two-piece and three-piece assemblies and require the use of an inner tube;
- (2) aluminum wheels;
- (3) certain on-the-road steel wheels that are coated entirely in chrome. This exclusion is limited to chrome wheels coated entirely in chrome and produced through a chromium electroplating process, and does not extend to wheels that have been finished with other processes, including but not limited to Physical Vapor Deposition (PVD).; and

- (4) steel wheels that do not meet Standard 110 or 120 of the NHTSA's requirements other than the rim marking requirements found in 49 CFR 571.110S4.4.2 and 571.120S5.2;
- (5) steel wheels that meet the following specifications: steel wheels with a nominal wheel diameter ranging from 15 inches to 16.5 inches, with a rim width of 8 inches or greater, and a wheel backspacing ranging from 3.75 inches to 5.5 inches; and
- (6) steel wheels with wire spokes.

Certain on-the-road steel wheels subject to this investigation are properly classifiable under the following category of the Harmonized Tariff Schedule of the United States (HTSUS):

8716.90.5035 which covers the exact product covered by the scope whether entered as an assembled wheel or in components. Certain on-the-road steel wheels entered with a tire mounted on them may be entered under HTSUS 8716.90.5059 (Trailers and semi-trailers; other vehicles, not mechanically propelled, parts, wheels, other, wheels with other tires) (a category that will be broader than what is covered by the scope). While the HTSUS subheadings are provided for convenience and customs purposes, the written description of the subject merchandise is dispositive.

Appendix II

List of Topics Discussed in the Issues and Decision Memorandum

- I. Summary
- II. Background
- III. Period of Investigation
- IV. Scope Comments
- V. Affirmative Final Determination of Critical Circumstances
- VI. Use of Facts Otherwise Available and Adverse Inferences
- VII. Discussion of the Issues
 - Comment 1: Calculation of the Total AFA Rate
 - Comment 2: Calculation of the All Others Rate
 - Comment 3: Whether Critical Circumstances Exist
- VIII. Recommendation

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